

Amendment \_ to Amendment 2 [HA 457]

**Amendment No. 1 to Amendment 2 to HB1038**

**West  
Signature of Sponsor**

<b>FILED</b>
Date _____
Time _____
Clerk _____
Comm. Amdt. _____
_____

**AMEND Senate Bill No. 172\***

**House Bill No. 1038**

by deleting the amendatory and directory language of Amendment 2 in its entirety and by substituting instead the following:

by deleting Section 4, as amended, and by substituting instead the following:

SECTION 4. Tennessee Code Annotated, Section 50-6-244, is amended

by adding the following new subsection:

( ) (1) If the commissioner of labor and workforce development, or the commissioner's designee, determines that an insurer or self insured employer fails to complete substantially and file the statistical data forms with such frequency as to indicate a general business practice, the commissioner may assess a monetary penalty against the insurance company for the employer or against the employer, if self insured. The amount of the monetary penalty shall not exceed one hundred dollars (\$100). For the purposes of this subsection, "general business practice" means an insurer or self-insured employer fails to complete substantially and file a statistical data form more than five (5) times.

(2) No monetary penalty may be assessed by the commissioner, or the commissioner's designee, with respect to a form that has been filed with the division of workers' compensation for more than ninety (90) days. No monetary penalty may be assessed for a statistical data form that was not filed with the court clerk more than ninety (90) days from the date of entry of the final order of the court. No monetary penalty may be assessed due to the failure to provide information on the statistical data

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form that is solely within the knowledge of the employee or due solely to the failure of the employee to sign such form.

(3) The commissioner, or the commissioner's designee, shall notify the following entities of the provisions of this section before January 1, 2004:

- (A) Insurance companies licensed to write workers' compensation coverage in Tennessee;
- (B) Employers who are self-insured pursuant to Section 50-6-405;
- (C) the Tennessee Trial Lawyers Association;
- (D) the Tennessee Defense Lawyers Association;
- (E) the Tennessee Bar Association;
- (F) the Administrative Office of the Courts; and
- (G) the County Officials Association of Tennessee.

(4) An insurance company or self insured employer assessed a monetary penalty by the commissioner pursuant to this subsection, may appeal the penalty under the Uniform Administrative Procedures Act in Tennessee Code Annotated, Title 4, Chapter 5. The commissioner, or an agency member appointed by the commissioner, shall have the authority to hear as a contested case an administrative appeal of any monetary penalty assessed pursuant to this subsection.

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AND FURTHER AMEND by adding the following sentence to the effective date section.

Provided, however, the notice provisions of Section 4( )(3) shall take effect upon becoming a law, the public welfare requiring it. The other provisions of Section 4 shall take effect on January 1, 2004, the public welfare requiring it.